

**MINUTES OF THE  
CONSOLIDATED ZONING BOARD OF APPEALS  
OF THE  
TOWN OF HIGHLANDS AND VILLAGE OF HIGHLAND FALLS  
MARCH 21, 2011**

A regular meeting of the Zoning Board of Appeals was held in the, Town Hall, Highland Falls, New York, on Monday, March 21, 2011, at 7:00 P. M.

**THERE WERE PRESENT:**

**Board Members:**

David Weyant, Chairman  
Jack Jannarone, Deputy Chairman  
Tim Donnery  
Tony Galu  
Ray Devereaux  
Ralph Montellese

Alyse Terhune, Attorney (Jacobowitz & Gubits, LLP)

**ALSO PRESENT:**

Rick Taylor, Mid-Hudson Neon Signs, LLC, Mario and Stephanie VanZetta, Roy and Marie Hannawalt, and John Hager, Building Inspector. Karen Ward arrived at 7:16 P. M.

**The meeting was called to order by the Chairman, at 7:00 P. M. It was noted that a quorum was present.**

MR. WEYANT: I am going to open the Consolidated Zoning Board of Appeals meeting for the Town of Highlands for March 21, 2011. All members are present. The first order of business is to approve the minutes for January 19, 2011, which was our re-organization meeting. These minutes were mailed to you prior to tonight's meeting. Are there any changes to these minutes? Hearing none, I would like a motion to approve them, as presented.

**A motion was made to approve the January 19, 2011 Minutes.**

**Motion: Mr. Jannarone Seconded: Mr. Devereaux Approved**

MR. WEYANT: The first application we have tonight is from Mario VanZetta on 6 Knox Road, Highland Falls, NY. What we are going to do tonight, Mr. and Mrs. VanZetta, is we are going to review your application so the Board understands what you are trying to do and why you are applying for a variance. I note that you want to put in an above ground pool on your property, and regarding that pool evidently there is going to be a problem with the front yard setback.

MR. VANZETTA: Correct.

MR. WEYANT: Would you give us some background on what the problem is and what you want to do.

MR. VANZETTA: Off the front side of the side deck we were going to have a 24 foot round pool put in. For the zoning variance it will be approximately 10 feet necessary for approval because you need a 30 foot setback We would be encroaching in on that and that is why we are here today to get a variance for an above ground round pool up in the front part of the yard..

MR. WEYANT: You would need a 10 foot variance from the 30 feet that is required by Code.

MR. VANZETTA: From down on Knox Road forward. It would be 10 feet on top of the 20 feet.

MR. WEYANT: We all have drawings of this. Are there any questions?

MR. JANNARONE: What section of the Code are we talking about?

MR. WEYANT: Chapter 240, Section 8.

MR. VANZETTA: Minimum front yard setback requirements.

MR. WEYANT: It requires 30 feet, Jack.

MR. JANNARONE: What I am getting at is: Does that apply to swimming pools?

MS. TERHUNE: To any structure on the property that would encroach on the setback. It is a structure.

MR. JANNARONE: Another question is: Does the Code envision any where that we would have swimming pools in the front yard? That is the big issue here.

MRS. VANZETTA: That is considered the side yard.

MR. JANNARONE: It is the front.

MR. VANZETTA: I am not sure. I read something about the pool being able to be up there as long as it is within the Code.

MR. DOHERTY: I don't know that that would be for Mr. VanZetta to answer that question, since he is not versed in the Code.

MR. JANNARONE: We ought to get ourselves up to speed. It is either now or next month.

MR. DOHERTY: We are here for the preliminaries.

MR. WEYANT: John, do you have anything to add?

MR. HAGER: My interpretation is that we require that an item can't be placed within the required front yard which is the 30 feet. If you had a 100 foot front yard, you would be restricted from putting that in that 30 feet but you would have another

70 feet that you could do with what you want. I don't see it as a restriction that he can't have an accessory pool anywhere in front. That is the way I interpret it.

MR. WEYANT: That is what I was going to ask. There is no prohibition in the Code about where a pool must be placed.

MR. HAGER: That does not say that there can't be a pool in a front yard, just that there can't be a pool in a required front yard.

MR. JANNARONE: My major concern is putting a pool in the front yard. I certainly would be agreeable to voting for putting it in the back. But that is a separate issue.

MR. WEYANT: I don't think there is any prohibition, Jack.

MR. JANNARONE: We need to look at this before the next meeting.

MR. DOHERTY: Fair enough.

MR. WEYANT: Any other questions? What we are going to do Mr. and Mrs. VanZetta, is we are going to set a Public Hearing at our next meeting for you which will be on April 18, 2011. It should be at Town Hall. If it is not, you will be notified. You will have some requirements before that meeting in the way of mailing to your neighbors as well as signage posting. Mr. Hager's office can review that with you and tell you what you need to do.

MR. DOHERTY: Mr. VanZetta, is there any particular reason why you chose to put it in the front and not the rear of the property, just so we will have a point of reference?

MR. VANZETTA: The back yard gets a lot of use. It is the only barrier between us and the road. The kids don't normally play in the front yard. It is like a wasted area. We will try to make it nice with trees to surround it to keep it as private as we can so it is not intrusive. It seemed like a better spot for us. That is the only reason why.

MR. JANNARONE: Section 240-31 D, (1), (c), Page 240: 54. "Such pool shall be not less than 10 feet from side and rear lot lines." This implies to me that it has to be in the side or rear lot.

MR. WEYANT: Are you referring to "such pool shall be not less than 10 feet from side and rear lot lines?"

MR. JANNARONE: That implies to me that they never envisioned putting one in the front yard at all. You could only put it in the side or rear. Otherwise that says you could put it right up on the street.

MR. WEYANT: I think we are going to have to defer to Counsel.

MS. TERHUNE: I think I am going to need a little bit of time to look through that. I can give you an opinion. That would be an interpretation. It does not say that you can't have it in the front yard. That would be something that this Board might interpret, although they are not asking for an interpretation. Give me to next month

to think about this, look at the Code. and discuss it with John. Then I will give you an opinion.

MR. GALU: Aren't above ground pools considered temporary?

MR. JANNARONE: No, I don't think so. If it were temporary, why would he be asking for a variance?

MR. GALU: An above ground pool does not last that long.

MR. JANNARONE: That doesn't matter. He would not need a variance if that were the case.

MR. DOHERTY: I think Jack has a valid question. There is no reason we can't have that looked into. That is why we are here.

MR. VANZETTA: That is why we are here.

MR. WEYANT: Thanks. Meet with Mr. Hager when you can and he will give you the requirements.

MR. VANZETTA: Thank you.

MR. WEYANT: Next I have Karen Ward. Is she here?

MR. HAGER: I don't see Karen. She had mentioned that she was going to be upstate today. Maybe the weather delayed her. I don't know. I thought she would make it back in time.

MR. WEYANT: All right. Let me skip over her for the time being. I will go to Mid-Hudson Signs for Chris Bernicker. We have an application regarding signage on Mr. Bernicker's property on Route 9W, which is the carwash and lube express building. I note in Mr. Hager's letter to you that: "The existing conditions to the building include four signs along Route 9W street frontage and one sign along the northerly building wall which does not face the street frontage. The Town of Highlands Code permits one wall sign and one detached ground sign on each public street frontage. Since the existing conditions already exceed requirements, a Zoning Code Permit cannot be issued." Now, explain to me what Mr. Bernicker would like to do with the signs.

MR. HAGER: Before you get into that. I just want to point out that this letter was written before they actually did perform some sign installation. What they did was they took down enough of the non-compliant signs so that they could put up a large lighted sign in front.

MR. WEYANT: Are you satisfied, now?

MR. HAGER: Right now what is there is in compliance as far as the new sign goes. They are looking to get a variance to add one additional sign, a large lighted sign.

MR. WEYANT: So as I understand, the additional signs that were not in compliance have been taken down?

MR. HAGER: They had some that were over the service bay doors. You add up the square footage of those, plus what they were adding with the new sign. Our Code says you can only have one sign. They had five. What they did was rather than us denying that permit back in January, they went ahead and took down a bunch of signs and put one large sign up to be in compliance. Then they said they would try to get a variance later for the lighted sign on the corner and they might want to put up some of the old signs, too.

MR. DOHERTY: We are talking about the round Castrol sign?

MR. TAYLOR: The only sign that is on the building at this point is the large Castrol sign. Everything else has been removed. Now it is in compliance.

MR. WEYANT: Is this what you need a variance for?

MR. TAYLOR: No. What we need a variance for is this small sign.

MR. WEYANT: That will go where?

MR. TAYLOR: On the side of the building. It is a 3 foot by 3 foot 8 sign. My client feels it will help attract business traveling south because of the building's position.

MR. WEYANT: The non-compliance signs are down?

MR. HAGER: Yes. There was difficulty with the signs to begin with because most of the sign in the town don't comply.

MR. DOHERTY: This particular instance.

MR. HAGER: Right. The larger signs had to be taken down.

MR. WEYANT: As I understand, all we are talking about is putting up this large Castrol sign.

MR. JANNARONE: There will be something else on that end of the building as well?

MR. TAYLOR: No.

MR. JANNARONE: Just the round Castrol sign?

MR. TAYLOR: That is it.

MR. DONNERY: When you say nothing else on the wall, you see the NYS Inspection.

MR. TAYLOR: That has been removed, sir. That is no longer there.

MR. WEYANT: We will also set a Public Hearing for our April 18, 2011 meeting. You will also need to meet with the Building Inspector for the mailings and signage that you need to do. We will also have to notify Orange County/New York State because of its closeness to Route 9W.

MS. TERHUNE: No, I think it is just County roads. If we do, I will go ahead and do that.

MR. WEYANT: I did not mention that for Mr. VanZetta's.

MR. DOHERTY: That is a State road, too.

MR. WEYANT: See you next month.

MR. TAYLOR: Thank you.

MR. WEYANT: This is Karen Ward who lives on Old State Road, who wants an addition to your existing garage and an addition to your porch.

MS. WARD: It would be an extension of the original house gable of the garage and to cover the porch. I have a little porch already that I don't know if it was part of the original house or if the homeowners put it on after the house received its blessing. It would be just a means of being out of the snow when it is bad weather.

MR. WEYANT: We are looking at two variances then for side yards.

MS. WARD: Yes.

MR. WEYANT: You have given us pictures of the original house and what you want to do. I believe we also have some nice drawings.

MS. WARD: If you look at the survey you can see that Old State Road has quite an easement to it so it may give the appearance that 19.9 feet from the property line is not very much room, but there is quite an easement there on Old State Road. I mean wide enough that you could park a few cars.

MR. DOHERTY: So you are just south of Kelly, you have the entrance to Cragston and then Kelly.

MS. WARD: I tried to buy her little side yard, but she won't sell it.

MR. DOHERTY: Sorry, it is not going to happen.

MR. WEYANT: Any questions, gentlemen? Pretty self explanatory. What we are going to do, Karen, is to set a Public Hearing at our April 18, 2011 meeting. You will need to do some mailings to your neighbors and posting. All of this would have to be done 10 days prior to our next meeting. You are all set, thank you.

MS. WARD: Thank you.

MR. WEYANT: Mr. Hannawalt, come on up. I think everyone at the table knows Roy. Roy has an interesting situation. It is an interpretation. If I understand this right, Roy, you are looking to put up a storage building of some sort, a public storage.

MR. HANNAWALT: Public storage. What I did was I visited John and applied for a building permit and a clarification or have some questions answered. We read the Code and believed that a storage garage as it is written was a permitted use. I wanted to clarify that so that there was no question that we could go forward with what we are proposing. John felt that considering the fact that storage units, as we know them today, weren't conceived of when the Code was written, left a little bit of a question in his mind. He thought it would be best that we ran this past the Board to be completely sure that we were all on the same page.

MR. WEYANT: Having read the Code, the Code does not specifically provide for a storage facility. What Roy is doing, and I agree with the way he is going about this, is he needs our interpretation of the Code. Do we want to change the Code or read into the Code the fact that this would be a permitted use? Not sure about changing the Code part, but could we interpret the Code.

MR. DEVEREAUX: Interpret and, I think, subsequently it needs to be changed.

MR. DOHERTY: I agree.

MR. WEYANT: That would be up to the Town Board. That is the crux of this situation. John, anything you want to add.

MR. HAGER: It is pretty simple in my mind. The Table of Use says if the use is not listed, it is prohibited. The closest use that is listed is parking garage/storage garage. It is just not clear enough to me whether you can stretch that that to fit rental storage units or not. I don't really feel comfortable either by saying it is completely prohibited or that it is permitted. That is why I asked the Applicant to come here and get your interpretation. I do recognize that most of the surrounding communities have these facilities so I am assuming that they are permitted uses in other towns. We just haven't updated our Code to recognize that use.

MR. HANNAWALT: It almost strikes me as a choice of words. A storage garage was a storage garage in 1960. Today it is called a storage building. At the same time I can't commit to other people without a clear understanding of what we are doing. I think it is prudent that we are all on the same page.

MR. JANNARONE: Do we have to have a Public Hearing?

MR. WEYANT: Yes, we do. We have to go through the normal Public Hearing procedure Roy, which will be at the April 18, 2011 meeting. You would need notification to your neighbors around the property.

MR. DOHERTY: Roy, could you give me an idea of what area we are speaking about. This is 9W? This is heading up towards West Point? This is the Garrison pond side of 9W?

MR. HANNAWALT: That is correct.

MR. DOHERTY: Where about are we talking?

MR. HANNAWALT: This lot is the lot we are talking about.

MR. DOHERTY: Where is this located?

MR. HANNAWALT: Tonneson's garage was here, then an apartment building next to it, then a hole in the ground.

MR. DOHERTY: That gulley.

MR. HANNAWALT: This was the Idlewood. There is another lot here that belongs to Ned Kopald.

MR. DOHERTY: This is just south of Tonneson's property.

MR. HANNAWALT: Then comes another open lot, then the driveway to the hotel. There was an old bungalow there.

MR. DOHERTY: I just needed a point of reference.

MR. GALU: There is an apartment building there. How many units can you get in there?

MR. HANNAWALT: I have not gone that far, we are in the conceptual mode right now. We did get some legal opinions on it. But that is up to you.

MS. TERHUNE: Can you show me which lot you are talking about.

MR. HANNAWALT: This is the lot. These are topography lines. The lot is vacant now.

MR. DOHERTY: That is Mr. Kopald's property?

MR. HANNAWALT: It borders, and the next lot, then the driveway to the Holiday Inn, then another driveway next to Favre's.

MR. WEYANT: Any further questions gentlemen? Roy, we will see you on April 18. John's office will give you information on what to do for signage and mailings.

MR. HANNAWALT: Thank you.

MR. WEYANT: Gentlemen, I have no further discussion tonight. You folks from Fort Montgomery – there is no Cell Tower discussion tonight for this Board. I imagine you will probably be here on Wednesday for the Planning Board meeting. I need a motion to adjourn.

**At 7:30 P. M., a motion was made to adjourn the meeting.**

**Motion: Mr. Doherty   Seconded: Mr. Jannarone   Approved**



Respectfully submitted,

Fran DeWitt  
Recording Secretary

**The next Consolidated Zoning Board of Appeals meeting is  
Monday, April 18, 2011**